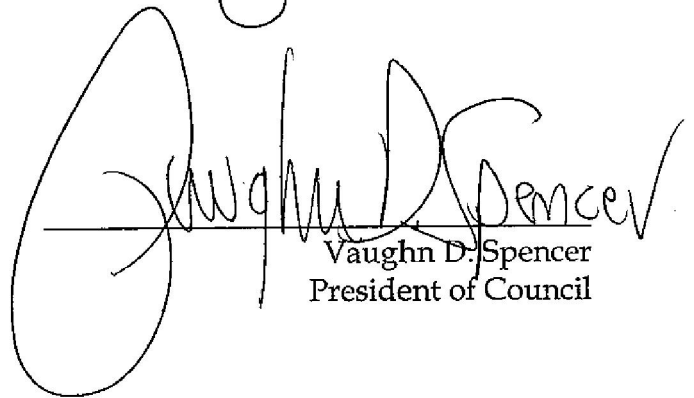


RESOLUTION NO. 600-2010

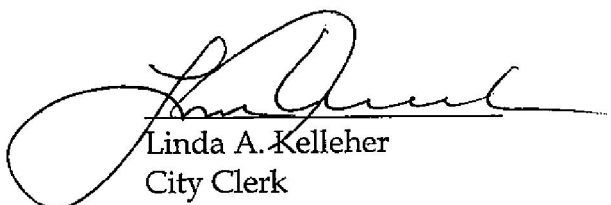
THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

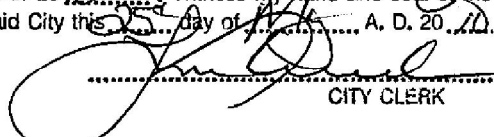
Denying the Conditional Use applications submitted by Yokefellowship Prison Ministries for two (2) group homes at 430 Elm Street and 315 North 6th Street as per the attached Findings of Fact and Conclusion of Law incorporated hereto.

Adopted by Council May 24, 2010


Vaughn D. Spencer
President of Council

Attest:


Linda A. Kelleher
City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 24th day of May, A. D. 20 10. Witness my hand and seal of the said City this 25th day of May, A. D. 20 10.

CITY CLERK

IN RE: APPLICATION OF YOKEFELLOW : BEFORE THE CITY COUNCIL
PRISON MINISTRIES : OF THE CITY OF READING,
CONDITIONAL USE APPLICATIONS : BERKS COUNTY, PENNSYLVANIA
RELATIVE TO THE PROPERTIES :
LOCATED AT 430 ELM STREET : CONDITIONAL USE
AND 315 N. 6th STREET : GROUP HOMES
READING, PENNSYLVANIA :

**DECISION OF THE CITY OF READING
CITY COUNCIL ON A CONDITIONAL USE APPLICATION**

AND NOW, this 24th day of May, 2010, hearings have been held on April 28, 2010, upon the application of John Rush, Executive Director of Yokefellowship Prison Ministries, notice of such hearing having been first sent, posted and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the City of Reading City Council (hereinafter "Council") renders the following decision:

FINDINGS OF FACT

City Council finds the following facts:

1. The Applicant is Yokefellowship Prison Ministry through its Executive Director, John Rush, "Applicant" with a registered address of P.O. Box 223, Reading, PA 19607.
2. Applicant testified that it leases one unit out of four at 430 Elm Street, Reading, Berks County, Pennsylvania (hereinafter referred to as "430 Elm Street").¹
3. At the time of the application and hearing, the property of 430 Elm Street is owned by Patrick and Joan Antosy through Eagle Investment Group, with a mailing address, of 313 West Neversink Drive, Reading, PA 19606,
4. Applicant also testified that it leases one unit of the multi unit property located at 315 North 6th Street, Reading, Berks County, Pennsylvania (hereinafter referred to as "315 N 5th Street").²

¹ Applicant did not present either as part of its application or as an exhibit a lease for the one unit at 430 Elm Street.

² Applicant did not present either as part of its application or as an exhibit a lease for the one unit at 315 N 6th Street.

5. The property of 315 N 6th Street is owned by Antonio Rojas and Amalia Mustafich, of 1985 East 15th Street, Brooklyn, NY 11229, , who are fee simple owners of at the time of application and at the time of the hearing.

6. Applicant did not present a lease or sales agreement or any other type of document showing it has an equitable interest in the entirety of Subject Properties or rights of the landowner.

7. 315 North 6th Street is located in the R-3 Zoning District and 430 Elm Street is located in the CR Zoning Districts as those terms and districts are defined by the City of Reading Zoning Ordinance, as amended, (hereinafter referred to as "Zoning Ordinance").

8. Applicant is seeking a Conditional Use to undertake Group Care Facilities at the Subject Properties as per §27-1203.7 of the City of Reading Zoning Ordinance.

9. A zoning permit to operate 315 North 6th Street as a four (4) unit multi unit dwelling was issued in 2008.

10. There is no zoning permit of record for 430 Elm Street.

11. Applicant testified that he has been operating Group Care Facilities for sexual offenders and others seeking re-entry assistance since the 1970s. All facilities are operated within the City of Reading and offer transitional post-incarceration care.

12. Applicant testified that according to the Commonwealth of Pennsylvania's Department of Labor and Industry they did not require a state license's to operate this type of counseling group home.

13. Applicant testified that he would comply with the limit of 10 persons in each group home, however, it also testified that there will be beds for three (3) tenants residing in each unit at both Subject Properties. Each property will have four (4) units.

14. A Group Care Facility is defined in relevant part in the Zoning Ordinance as:

A household facility of more than three persons, but fewer than 10 persons not necessarily related by blood, marriage, adoption or legal guardianship, . . .

15. Zoning Ordinance further states in §27-1203(7)(B) that there shall be no more than 10 residents in a group care facility.

16. Three (3) individuals in four (4) units would be twelve individuals which exceeds the amount of a Group Care Facility.

17. Applicant testified that two (2) off-street parking spaces are available at 315 North 6th Street and no off-street parking spaces are available at 430 Elm Street. He testified that he would lease off-street parking spaces if required by the City. No lease for off street parking was presented.³ The site plan for 315 North 6th Street did not depict alleged off-street parking as required by the Zoning Ordinance.⁴

18. Section 27-1203(7)(A)(3) of the Zoning Ordinance requires one (1) off-street parking spaces for each employee and one space for each four (4) patient/client beds.

19. Presuming one (1) employee and twelve (12) client beds as testified to by Applicant at each subject property, a minimum of three (3) parking spaces is required for each of the Subject Properties.

20. Applicant testified that 315 and 317 North 6th Street are used in concert with each other; however, both buildings will remain separate individual residential buildings.

21. Applicant initially testified that 317 N 6th is not a group home but subsequently stated that it operates similar to the uses for which he was seeking approval from the City through the Conditional Use hearing.

22. The Zoning Administrator testified that a Group Home Zoning Permit was issued to the Applicant's property located at 317 North 6th Street in 2005 for transitional care and counseling for sexual offenders.

23. There is no dispute that 317 N 6th Street is within 800 feet of 315 N 6th Street.

24. Applicant testified that he used a wheel from Wolfe's Rental to measure by traveling the sidewalk as person would walk between 315 N 6th and 430 Elm Street to other group care facilities, group institutions, school, day care home and day care center in the vicinity and found none to be less than 800 feet of the Subject Properties. Finding that the daycare center was 800 feet from 315 N 6th Street.

25. Zoning Administrator provided testimony that utilizing the City's GIS navigating tool to locate a 800 foot radius from the Subject Properties. She found within 800 feet of 430 Elm Street a Group Institution at 208 -0218 Madison Street permitted as 1995-303 and at 417 Walnut Street per permit 1995-301. For 315 N 6th Street in addition

³ Applicant testified that a City property neighbors 430 Elm that if demolished could be utilized for parking, however, no request for nor agreement to utilize said property for parking has been approached or negotiated.

⁴ §27-1603(1)(W) of the Zoning Ordinance requires one space per employee and one space per three (3) patient / client beds. Applying this standard, Applicant would require four (4) parking spaces for patients plus one per each employee.

to 317 N 6th Street permitted by permit number 2005-66, Kidz in Motion Daycare at 213 N 6th Street under permit 201-29.

26. The Zoning Ordinance in §127-1203(7)(A)(2) precludes group care facilities to be located within 800 feet of another group facility or institution, school, day care home or center.

27. Applicant did not present any lease nor sales agreement between Yokefellowship, as the social service agency sponsoring the group care facility, and the owners of the Subject Properties.

28. Section 27-1203(7)(A)(4) of the Zoning Ordinance requires that the residential group care facility be either leased or owned by the sponsoring social service agency.

29. There was no testimony nor documentation offered that to prove that all building, fire, plumbing, heating, electrical and similar systems meet the standards set by the City and Commonwealth of Pennsylvania as required under §27-1203(7)(A)(5) of the Zoning Ordinance.

30. Applicant did not present any testimony or documentation as to compliance with the bulk standards, etc, required for a Group Care Facility as a Conditional Use under the Zoning Ordinance.

31. Pursuant to §27-301(2)(C) the City of Reading Planning Commission at its April 27, 2010 meeting reviewed Applicant's application for Conditional Use relief to operate Group Care Facilities at 315 N 6th Street and 430 Elm Street.

32. By Resolutions 20-2010 and 21-2010, the City of Reading Planning Commission recommended that the Conditional Use applications be denied as the Applicant failed to meet the minimum standards required by the Zoning Ordinance for Conditional Use to operate a Group Care Facility at the Subject Properties.

33. The majority of Reading residents who provided public comment on the Group Home applications spoke in opposition to their approval due to the current overcrowding and parking problems as well as concern for the safety of themselves and neighboring families.

33. A few Reading residents spoke in favor of the applications theorizing that if not the individuals under the watchful eye of Yokefellowship then who would be their neighbors.

DISCUSSION

Applicant requests a Conditional Use to undertake Group Care Facilities at 430 Elm Street and 315 N 6th Street which are located in CR and R3 Zoning Districts, respectively. To obtain a Conditional Use for a Group Care Facility an applicant must meet the criteria therefor as set forth in the Zoning Ordinance, specifically, §27-1203(7). As more fully discussed herein, Applicant has failed to meet the criteria to operate a Group Care Facility as a Conditional Use in accordance with the Zoning Ordinance.

CONCLUSIONS OF LAW

1. Applicant requests a Conditional Use for Group Homes at 430 Elm Street and 315 North 6th Street.
2. The burden of proof in an application for a Conditional Use is upon the Applicant.
3. The Subject Properties are located in the R-3 and CR Zoning District.
4. A hearing on Applicant's application was held on April 28, 2010.
5. City of Reading City Council is permitted to grant Conditional Uses and other relief as set forth in the Zoning Ordinance of the City of Reading and Pennsylvania Municipalities Planning Code upon compliance with the requirements therefore set forth in the Zoning Ordinance.
6. Applicant did not present documentation or testimony evidencing standing to submit the application for and seek a conditional use to operate a Group Care Facility at 315 N 6th Street or 430 Elm Street. Thus, Applicant lacks standing to seek this approval pursuant to the Pennsylvania Municipalities Planning Code and Zoning Ordinance of the City of Reading.
7. The requirements for Group Homes as a Conditional Use in an R-3 and CR Zoning District are set forth in §27-1203(7) of the City of Reading Zoning Ordinance.
8. In order to grant the relief, Applicant must show that it has satisfied the requirements of §27-1203(7) of the City of Reading Zoning Ordinance.
9. Applicant failed to meet the burden of proof to meet the requirements for a Group Home Conditional Use for the Subject Properties as set forth in §27-1203(7) of the City of Reading Zoning Ordinance. Specifically, Applicant failed to prove:
 - a. There are at least one (1) off street parking spaces delegated to each employee plus one space for each four (4) patient beds per §27-1203(7)(A)(3).

- b. Documentation that all plumbing, heating and electrical equipment and facilities meet the standards set by the City and the Commonwealth of PA as required by §27-1203(7)(A)(5).
- c. Leases or ownership of the Subject Properties per §27-1203(7)(A)(4).
- d. Separation of at least 800 feet from the proposed locations of the Group Care Facility and other group care facilities or institutions, schools or day care homes or centers as necessitated by §27-1203(7)(A)(2).
- e. Limitation of the group care facilities by no more than 10 persons per §27-1203(7)(B)(2).

10. Applicant did not file an application for a non-conforming use or other relief from the Zoning Hearing Board for the City of Reading.

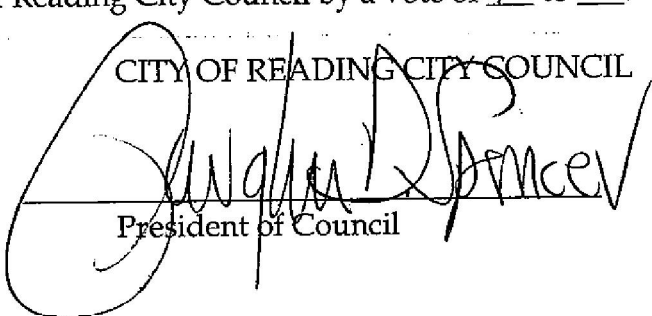
DECISION

After reviewing the Applicant's request in detail and hearing testimony, City Council enters the following decision:

Applicant is hereby denied a Conditional Use to operate a Group Care Facility at 315 N 6th Street and 430 Elm Street because Applicant failed to meet the requirements therefore pursuant to the City of Reading Zoning Ordinance. The Applicant shall cease and desist using 430 Elm Street and 315 North 6th Street as a Group Care Facility including for any and all post-incarceration care of any type within 30 days from the date this decision is adopted.

This is the decision of the City of Reading City Council by a vote of 7 to 0.

CITY OF READING CITY COUNCIL


President of Council

Attest:


City Clerk